

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 G. MICHAEL GERMAN, State Bar No. 103312  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2617  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-17

13 JILL FRANCES LEWKOVICH  
1396 Crestview Drive  
14 Oceanside, CA 92056

**A C C U S A T I O N**

15 Registered Nurse License No. 529854

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Ruth Ann Terry, M.P.H., R.N. brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
22 Department of Consumer Affairs.

23 2. On February 18, 1997, the Board of Registered Nursing issued Registered Nurse  
24 License Number 529854 to Respondent Jill Frances Lewkovich. The license was in full force  
25 and effect at all times relevant to the charges brought herein and will expire on September 30,  
26 2010, unless renewed.

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1 or in a manner dangerous or injurious to himself or herself, any other person, or  
2 the public or to the extent that such use impairs his or her ability to conduct with  
safety to the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,  
4 consumption, or self-administration of any of the substances described in  
5 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section, in  
which event the record of the conviction is conclusive evidence thereof.

6 . . . .

7 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
8 revoke a license on the ground that the licensee has been convicted of a crime  
9 substantially related to the qualifications, functions, or duties of the business or profession for  
10 which the license was issued.

11 9. Section 493 of the Code states:

12 Notwithstanding any other provision of law, in a proceeding conducted by  
13 a board within the department pursuant to law to deny an application for a license  
14 or to suspend or revoke a license or otherwise take disciplinary action against a  
15 person who holds a license, upon the ground that the applicant or the licensee has  
16 been convicted of a crime substantially related to the qualifications, functions, and  
17 duties of the licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of that fact,  
and the board may inquire into the circumstances surrounding the commission of  
the crime in order to fix the degree of discipline or to determine if the conviction  
is substantially related to the qualifications, functions, and duties of the licensee in  
question.

18 As used in this section, "license" includes "certificate," "permit,"  
19 "authority," and "registration."

## 20 REGULATORY PROVISIONS

21 10. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the  
23 qualifications, functions or duties of a registered nurse if to a substantial degree it  
24 evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or  
acts shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those  
26 violations listed in subdivision (d) of Penal Code Section 11160.

27 (b) Failure to comply with any mandatory reporting requirements.

28 (c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to  
2 Section 290 of the Penal Code.

3 11. California Code of Regulations, Title 16, section 1445 states:

4 . . . .

5 (b) When considering the suspension or revocation of a license on the  
6 grounds that a registered nurse has been convicted of a crime, the board, in  
7 evaluating the rehabilitation of such person and his/her eligibility for a license will  
8 consider the following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or  
12 offense(s).

13 (4) Whether the licensee has complied with any terms of parole,  
14 probation, restitution or any other sanctions lawfully imposed against the licensee.

15 (5) If applicable, evidence of expungement proceedings pursuant to  
16 Section 1203.4 of the Penal Code.

17 (6) Evidence, if any, of rehabilitation submitted by the licensee.

#### 18 COST RECOVERY

19 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
20 the administrative law judge to direct a licentiate found to have committed a violation or  
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
22 and enforcement of the case.

#### 23 FIRST CAUSE FOR DISCIPLINE

24 (March 11, 2009 Criminal Conviction for DUI With Injury on January 3, 2009)

25 13. Respondent has subjected her license to disciplinary action under sections 490 and  
26 2761, subdivision (f) of the Code in that she was convicted of a crime substantially related to the  
27 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

28 a. On or about March 11, 2009, in a criminal proceeding entitled *People of  
the State of California v. Jill Lewkovich*, in San Diego County Superior Court, North County  
Division, case number CN256316, Respondent was convicted on her plea of guilty of violating  
Vehicle Code section 23153, subdivision (b), driving with a blood alcohol level of .08 or more

causing bodily injury, a misdemeanor, pursuant to Penal Code section 17, subdivision (b)(4).

b. As a result of the conviction, on or about March 11, 2009, Respondent was sentenced to five days in jail, with credit for one day; five years summary probation; completion of a MADD impact panel and a three-month First Conviction Program; payment of \$2,395 in fines, fees, and restitution; and standard alcohol conditions, including not driving with a measurable amount of alcohol/drugs in the blood.

c. The facts that led to the conviction were that at about 10:37 p.m. on January 3, 2009, officers from the Oceanside Police Department responded to a call of a traffic collision. Upon arrival, the officers learned that Respondent rear-ended a Pontiac stopped at a red light, which then pushed the Pontiac into a Honda causing a chain reaction collision. There was major damage to Respondent's Mercedes and the Pontiac. The driver of the Honda complained of head pain; a passenger in the Pontiac complained of upper body pain. The officer noted that Respondent's eyes were bloodshot, watery and droopy, and her speech was slow and slurred. Respondent admitted drinking two shots of vodka earlier in the evening. Respondent submitted to a series of field sobriety tests, none of which she was able to complete as explained and demonstrated by the officer. Respondent was arrested and transported to the police station. Respondent submitted to two breath tests resulting in a BAC of 0.12%. The January 9, 2009 felony complaint filed against Respondent charged her with violating Vehicle Code section 23153, subdivision (a) and (b).

## SECOND CAUSE FOR DISCIPLINE

**(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

14. Respondent has subjected her license to disciplinary action under sections 2761, subdivision (a), and 2762, subdivision (b) of the Code in that on or about January 3, 2009, as detailed in paragraph 14, above, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself and the public, which constitutes unprofessional conduct substantially related to the qualifications, functions, and duties of a registered nurse.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**


3 15. Respondent has subjected her license to disciplinary action under sections 2761,  
4 subdivision (a), and 2762, subdivision (c) of the Code in that on or about March 11, 2009, as  
5 detailed in paragraph 14, above, Respondent was convicted of criminal offenses involving the  
6 consumption and self-administration of alcohol, which constitutes unprofessional conduct  
7 substantially related to the qualifications, functions, and duties of a registered nurse.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 529854, issued to Jill  
12 Frances Lewkovich;
- 13 2. Ordering Jill Frances Lewkovich to pay the Board of Registered Nursing the  
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 7/13/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

21 SD2009804207